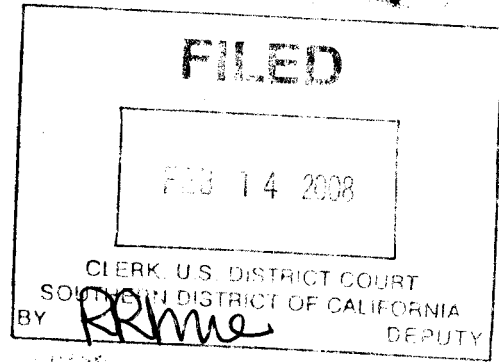


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 7 UNITED STATES OF AMERICA



8
 9 UNITED STATES DISTRICT COURT
 10 SOUTHERN DISTRICT OF CALIFORNIA

11 UNITED STATES OF AMERICA,)	Magistrate Case No. 08MJ0233
)	
12 Plaintiff,)	
)	
13 v.)	STIPULATION OF FACT AND JOINT
)	MOTION FOR RELEASE OF
14 EMILIO GONZALEZ-RODRIGUEZ (2),)	MATERIAL WITNESS(ES) AND
)	ORDER THEREON
15 Defendant.)	
)	(Pre-Indictment Fast-Track Program)

16
 17 **IT IS HEREBY STIPULATED AND AGREED** between the plaintiff, UNITED STATES
 18 OF AMERICA, by and through its counsel, Karen P. Hewitt, United States Attorney, and Carla J.
 19 Bressler, Assistant United States Attorney, and defendant EMILIO GONZALEZ-RODRIGUEZ, by
 20 and through and with the advice and consent of defense counsel, Michael McCabe, Esq., that:

21 1. Defendant agrees to execute this stipulation on or before the first preliminary hearing
 22 date and to participate in a full and complete inquiry by the Court into whether defendant knowingly,
 23 intelligently and voluntarily entered into it. Defendant agrees further to waive indictment and plead
 24 guilty to the pre-indictment information charging defendant with a non-mandatory minimum count
 25 of Transportation of Aliens and Aiding and Abetting, in violation of 8 U.S.C. §1324(a)(1)(A)(ii)
 26 and (v)(II).

27 //

28 CJB:kmm:1/28/08

*M/W's
on
Bond*

1 2. Defendant acknowledges receipt of a plea agreement in this case and agrees to
2 provide the signed, original plea agreement to the Government not later than five business days
3 before the disposition date set by the Court.

4 3. Defendant agrees to plead guilty to the charge pursuant to the plea agreement on or
5 before **February 25, 2008**.

6 4. The material witnesses, Eucario Arango-Jarquin, Carlos Rios-Jarquin and Angel
7 Pacheco-Juarez, in this case:

8 a. Are aliens with no lawful right to enter or remain in the United States;

9 b. Entered or attempted to enter the United States illegally on or about
10 January 23, 2008;

11 c. Were found in a vehicle in which defendant EMILIO GONZALEZ-
12 RODRIGUEZ was a passenger in or near Pine Valley, California and that defendant knew or acted
13 in reckless disregard of the fact that they were aliens with no lawful right to enter or remain in the
14 United States;

15 d. Were paying unknown amounts or \$1,800 to others to be brought into the
16 United States illegally and/or transported illegally to their destination therein; and,

17 e. May be released and remanded immediately to the Department of Homeland
18 Security for return to their country of origin.

19 5. After the material witnesses are ordered released by the Court pursuant to this
20 stipulation and joint motion, if defendant does not plead guilty to the charge set forth above, for any
21 reason, or thereafter withdraws his guilty plea to that charge, defendant agrees that in any proceeding,
22 including, but not limited to, motion hearings, trial, sentencing, appeal or collateral attack, that:

23 a. The stipulated facts set forth in paragraph 4 above shall be admitted as
24 substantive evidence;

25 b. The United States may elicit hearsay testimony from arresting agents
26 regarding any statements made by the material witness(es) provided in discovery, and such testimony
27 shall be admitted as substantive evidence under Fed. R. Evid. 804(b)(3) as statements against interest

28 Stipulation of Fact and Joint Motion for Release of
Material Witness(es) And Order Thereon in
United States v. Emilio Gonzalez-Rodriguez (2)

1 of (an) unavailable witness(es); and,

2 c. Understanding that under Crawford v. Washington, 124 S. Ct. 1354 (2004),
3 "testimonial" hearsay statements are not admissible against a defendant unless defendant confronted
4 and cross-examined the witness(es) who made the "testimonial" hearsay statements, defendant
5 waives the right to confront and cross-examine the material witness(es) in this case.

6 6. By signing this stipulation and joint motion, defendant certifies that defendant has
7 read it (or that it has been read to defendant in defendant's native language). Defendant certifies
8 further that defendant has discussed the terms of this stipulation and joint motion with defense
9 counsel and fully understands its meaning and effect.

10 Based on the foregoing, the parties jointly move the stipulation into evidence and for the
11 immediate release and remand of the above-named material witness(es) to the Department of
12 Homeland Security for return to their country of origin.

13 It is STIPULATED AND AGREED this date.

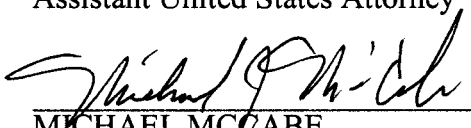
14 Respectfully submitted,

15 KAREN P. HEWITT
United States Attorney

16
17 Dated: 2/7/08

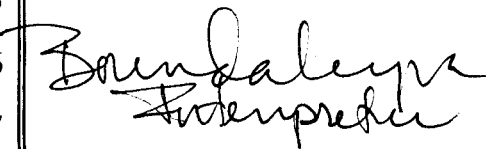
18 
CARLA J. BRESSLER
Assistant United States Attorney

19
20 Dated: 1/31/08

21 
MICHAEL MCCABE
Defense Counsel for
EMILIO GONZALEZ-RODRIGUEZ

22
23 Dated: 01-31-08

24 
EMILIO GONZALEZ-RODRIGUEZ
Defendant

25
26 
27 Emilio Gonzalez-Rodriguez
1/31/08

28 Stipulation of Fact and Joint Motion for Release of
Material Witness(es) And Order Thereon in
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ORDER

Upon joint application and motion of the parties, and for good cause shown,

THE STIPULATION is admitted into evidence, and,

IT IS ORDERED that the above-named material witness(es) be released and remanded forthwith to the Department of Homeland Security for return to their country of origin.

SO ORDERED.

Dated: 2/14/08


United States Magistrate Judge